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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/196,680	11/20/1998	STEPHEN J. MEYER	052250-5008	9428

9629 7590 08/27/2002

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EXAMINER

KIM, CHRISTOPHER S

ART UNIT	PAPER NUMBER
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3752

DATE MAILED: 08/27/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/196,680

Applicant(s)

MEYER ET AL.

Examiner

Christopher S. Kim

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 29 July 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-15 and 20-61 is/are pending in the application.
- 4a) Of the above claim(s) 55-61 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 20-54 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 29, 2002 and July 29, 2002 have been entered.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Election/Restrictions***

3. Newly submitted claims 55-61 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Claims 55-56 are directed to a combination which does not require the particulars of the subcombination of claims 1-54, such as the deflector. Claims 57-61 are directed to a method. The process of claims 1-54 can be practiced by another materially different apparatus which does not require a deflector.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 55-61 are withdrawn from consideration

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as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

### ***Claim Objections***

4. Applicant recites “at least” throughout the claims, for example, “extended-coverage area is at least 320 square feet” and “at least 38 gallons per minute”. Such a recitation can have two valid interpretations. In dealing with the coverage area, such a recitation can describe a coverage area between 0 and 320 square feet, inclusive of the 320 square feet, or a coverage area between 320 square feet and infinity, inclusive of the 320 square feet. It should be noted that the later interpretation of the claim is not enabled by the disclosure.

### ***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 25–49 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 25, 42, 45–48 recite “an unactuated trigger” or “an unactuated heat responsive trigger”. The application, as originally filed, fails to disclose the apparatus comprising “an unactuated

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trigger” or “an unactuated heat responsive trigger” after the apparatus is triggered.

Additionally, the application, as originally filed, fails to provide support for the following recitations:

in claim 31, “at least one orientation”;

in claims 45, 46, “at least one frame arm”;

in claim 50, “at least one pipe” and “at least one sprinkler”.

7. Claims 1-15 and 20-54 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for the actual value in the repeated recitations of “at least \_\_\_\_”, “\_\_\_\_ or greater”, “greater than \_\_\_\_”, “\_\_\_\_ or more” and other similar recitations, does not reasonably provide enablement for an infinite value. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention commensurate in scope with these claims. See above for consideration of “at least”.

8. Claim 31 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 31, the recitation “parallel to or oblique to” renders the claim indefinite.

### ***Claim Rejections - 35 USC § 103***

9. Claims 1-16 and 20-54 (as best understood) are rejected under 35 U.S.C. 103(a) as being unpatentable over Fischer in view of Tramm.

Fischer discloses a sprinkler comprising: a generally tubular body 30 having a central passageway 31, a closure 40, a trigger 44, a deflector 38; two frame arms 34; two support arms (no reference numbers); a single flow opening 79. Fischer teaches the use of a deflector 38 shaped and positioned to transform a horizontal flow of water into a spray pattern of droplets dispersed over a generally horizontal, rectangularly-shaped coverage area (see figures 1 and 6). The coverage area may be up to 16 ft x 24 ft (see column 3 lines 55-58). Tramm discloses, in column 5, lines 12-14, a horizontal-type fire protection sprinkler having a K-factor of at least 3.5, or at least 5.0, or at least 7.0, or at least 10.5, or at least 13.0. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided the sprinkler of Fischer with the range of K-factors (greater than 9) as taught by Tramm to provide a specific flow rate depending on pressure.

The device of Fischer in view of Tramm discloses the claimed limitation with the exception of the water flow rate and coverage area being at a height of only three feet below the canopy portion of the deflector. Fischer in view of Tramm discloses the structural limitations, K-factors including the relationship between flow rates and pressures, and the coverage area. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have positioned the sprinkler of Fischer in view of Tramm three feet above the coverage area to extinguish fires in three feet high compartments.

Fischer discloses the limitations of the claimed invention with the exception of the liquid filled glass bulb. Tramm discloses, pictorially, in figure 2, a liquid filled glass bulb

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20. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have replaced the trigger of Fischer with the trigger (liquid filled glass bulb) of Tramm to eliminate the need for solder.

Fischer discloses, in column 3, lines 55-58, a coverage area of 16 ft x 24 ft (using a deflector comprising a generally planar face portion and a canopy portion, see figure 2). It would have been obvious to a person of ordinary skill in the art at the time the invention was made that the coverage area is dependent on the fluid pressure, and therefore, any coverage area less than 16 ft x 24 ft can be attained by reducing the pressure (or increasing the K-factor which results in a lower pressure as defined by the formula in column 5, lines 30-38 of Tramm). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have adjusted the coverage area depending on the size of the room, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

### ***Response to Arguments***

10. Applicant's arguments filed May 29, 2002 and July 29, 2002 have been fully considered but they are not persuasive.

In response to the declaration by Mr. Golinveaux, see prior Office actions.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention

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where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Tramm provides a relationship of flow, K-factor and pressure. It is within the knowledge generally available to one of ordinary skill in the art, using the relationship provided by Tramm, to increase the flow rate, while keeping pressure constant, the K-factor must be increased.

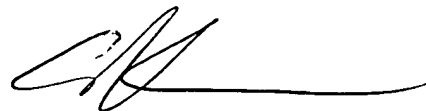
### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher S. Kim whose telephone number is (703) 308-8336. The examiner can normally be reached on Monday - Thursday, 6:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Y. Mar can be reached on (703) 308-2087. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7766 for regular communications and (703) 308-7766 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

CK  
August 24, 2002



**CHRISTOPHER KIM  
PATENT EXAMINER**